

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL NIVARD BEATON,

Petitioner,

v.

PAYAN,

Respondent.

No. 2:22-cv-0701-EFB P

ORDER

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹ As discussed below, the petition is dismissed with leave to amend. *See* Rule 4, Rules Governing § 2254 Cases (requiring summary dismissal of habeas petition if, upon initial review by a judge, it plainly appears “that the petitioner is not entitled to relief in the district court”).

Federal habeas relief under § 2254 is available to “a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.”² 28 U.S.C. § 2254(a). Here, petitioner does not

¹ Petitioner also seeks leave to proceed in forma pauperis. ECF No. 2. That request is granted.

² Alternatively, federal habeas relief under § 2241 is more broadly available to challenge one’s custody, on the ground that it is “in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).


1 challenge a state court judgment of conviction and sentence. Instead, petitioner alleges that on
2 April 4, 2022, a psychiatrist told petitioner that instead of being released, petitioner was being
3 “sentenced” to a “mental state prison.” ECF No. 1 at 1. The California Department of
4 Corrections and Rehabilitation’s online inmate locator shows that petitioner is currently housed at
5 the California Medical Facility.

6 If petitioner wishes to proceed with a § 2254 petition, he must challenge a state court
7 judgment of conviction and sentence. Alternatively, federal habeas relief under § 2241 is more
8 broadly available to challenge one’s custody, on the ground that it is “in violation of the
9 Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Petitioner shall
10 clarify the nature of this action and the relief sought in an amended petition.

11 Accordingly, IT IS ORDERED that:

- 12 1. Petitioner’s application for leave to proceed in forma pauperis (ECF No. 2) is granted;
- 13 2. Petitioner shall file an amended petition for writ of habeas corpus within 30 days of
14 the date of this order; and
- 15 3. Failure to comply with this order will result in a recommendation that this action be
16 dismissed for the reasons stated herein.

17 Dated: April 29, 2022.

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19 EDMUND F. BRENNAN
20 UNITED STATES MAGISTRATE JUDGE
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